



**Benton County Planning Board  
Public Hearing  
Technical Advisory Committee Meeting**

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March 6, 2013

6:00 PM

Benton County Administration Building  
215 East Central Avenue

**Meeting Minutes**

**PUBLIC HEARING:**

**Call to Order:** The meeting was convened at 6:00 PM by Planning Board Chair Mark Curtis.

**Roll Call:** Mark Curtis, Jim Cole, Ken Knight, Starr Leyva, Ashley Tucker, and Rick Williams were present. John Pate was absent.

**Persons present in addition to the Board:** Director of Planning and Environmental Services Christopher Ryan, Planning Manager Rinkey Singh, Planning Coordinator M.J. McGetrick, Planning Assistant Matt Benton, and Administrator of General Services John Sudduth. Twenty-seven members of the public were also present.

**Disposition of Minutes:** Mr. Knight moved to approve the minutes. The motion was seconded by Mr. Tucker, to approve the February 6, 2013 Planning Board meeting minutes as written. The motion carried 6-0.

**General Public Comment:** None

**Old Business:** None

**New Business:**

**A. Wolfe Boat Works – LSD Addition, #13-237, 14101 E. HWY 12, Rogers, AR**

Represented by: Jeff Wolfe, 8899 East Brown Road Lowell, AR and Pat Wolfe 16576 Ivy Lane Rogers, AR

**Staff Updates:** Staff gave a presentation on the project. The site plan presented at the February 6, 2013 Technical Advisory Committee showed several inaccuracies. Staff stated that a revised site plan was provided on February 20, 2013. The revised plan contained numerous changes which addressed all outstanding issues.

Staff noted the hours of operation had been verified. The applicants proposed hours of 8:00 AM to 5:00 PM on weekdays and 9:00 AM to 1:00 PM on Saturdays. The facility is closed on Sundays.

Staff noted that the customer parking and drop-off would be restricted to the west side of the existing structure. Parking would expand to fourteen (14) total spaces on-site, including one (1) accessible space. The overflow service parking would be south of the proposed addition. Employee parking and equipment servicing would occur on the new parcel.

Staff stated that the septic and propane locations had been identified and would be protected by bollards. The applicants had confirmed that traffic circulation would not occur over the septic tank or lateral fields.

Staff noted a new chain link fence with black inserts had been proposed along Stoner Lane. The fence would be accompanied by landscaping. The applicants also proposed a 100-foot long wood fence standing six (6)

feet tall for the privacy of the residential units to the south. This fence would continue up to 100 feet as a chain link fence. The chain link fences to the north of the newly acquired parcel and east of Highway 12 would be maintained.

Staff confirmed that all three (3) parcels would be consolidated.

Staff noted the proposed building addition would be in compliance with all setbacks and that all setbacks would be maintained as grassed or landscaped areas.

Staff stated the revised plan confirmed that the existing 150 watt wall-mounted lights on the east, west, and south building walls would be maintained. The light fixtures on the southern wall would be relocated to the south wall of the new addition.

Staff utilized a concept landscape plan to show the proposed buffers. Along Highway 12, the applicants proposed a combination of Golden forsythias spaced eight (8) feet on center and two (2) Sky Rocket Junipers with two (2) Knock Out Roses spaced eight (8) feet on center along the northern property line extending from the eastern limit up to the existing access on Highway 12. Along the Stoner Lane frontage, a new buffer of Sky Rocket Junipers and Knock Out Roses spaced eight (8) feet on center were proposed with a chain-link fence containing black inserts behind them. The eastern and southern limits of the overflow service area would be screened from adjoining residential areas with hybrid poplars spaced 15 feet on center. Towards the south, the applicants would provide a six (6) foot tall wood fence and hybrid poplars spaced 15 feet on center. The eastern limits of the employee parking and service areas would be buffered by Sky Rocket Junipers and Knock Out Roses spaced eight (8) feet on center along Stoner Lane.

Staff noted the existing access from Highway 12 would remain and a shared access with the northern property was proposed. The proposed access would be gated with a curb cut of approximately 40 feet and located 25 feet from the property line on Stoner Lane. The access would provide an entrance and exit to the employee parking area and the boat service area. The shared driveway concept was supported by the Benton County Road Department, considering the shared access was a safe distance from the intersection. The Benton County Road Department would install a sign within the Stoner Lane right-of-way noting a hidden driveway on Stoner Lane. The proposed access would be sufficiently offset from the intersection of Highway 12 and Stoner Lane. Minor revisions to the design of the access would be required to accommodate the maneuvering of vehicles by providing an appropriate curve for the movement of vehicles. The shared driveway would provide a safe location for access to the site, considering the existing topography and proximity to the intersection with Highway 12. Staff stated this was an appropriate approach that would relocate the access away from the residential areas on Stoner Lane and combines use with the adjacent property owner. If approved, this access would require a driveway permit. Staff noted the entrance should be a minimum of six (6) feet from the base of Stoner Lane to the new gate and should be paved to the satisfaction of Benton County.

Staff presented several considerations for the access to Stoner Lane. It was noted the vacant property at the intersection of Highway 12 and Stoner Lane could only have access from Stoner Lane given the topography of the property. Access to this parcel would be near the intersection making it unsafe for all users given the frontage on Stoner Lane. The option for a shared access between the applicants and the property would locate the access 160 feet away from the intersection and approximately 109 feet away from the edge of the nearest residential area, thus offering a safe design. The angled gate and design of the access further would direct vehicles away from the residential areas.

Staff noted the applicants had provided an Engineer's Certificate stating that an increase in flow caused by the proposed addition would be considered pre-peak flow. Since the property is located in the MS4, a stormwater permit was required.

Staff noted that on February 10, 2005, the Benton County Health Department approved the application for septic on-site. Since the proposal didn't include additional restrooms or plumbing provisions, further review by the Health Department was not warranted.

Staff was informed that the Beaver Lake Fire Department would provide fire protection for the proposed addition. Staff noted the Benton County Fire Marshall required the installation of a Knox Box, if not currently in place at the gated access driveways. Staff stated the Beaver Lake and Benton County Fire Departments supported the access from Stone Lane for firefighting purposes.

According to Staff, Emergency Management stated that the threshold for reporting requirements under the SARA Title III and Tier II had not been met due to the small amount of chemicals reported on-site. The applicants had noted that 6-55 gallons of oil, 10 gallons of solvents, and 110 gallons of waste oil would be stored on-site. Existing barrels would be stored inside the building and relocated.

Staff noted the applicants had provided proof of payment of taxes since 2012. Staff acknowledged the error in the GIS database.

Staff concluded that the outstanding items were minor in nature and that the applicants had worked diligently with Staff. Staff noted minor revision to the access on Stoner Lane might be required to accommodate the maneuvering of vehicles. The service area should be delineated. Staff noted the wall-mounted lights should be shown on the final site plan.

Staff informed the applicants that it was expected that a site plan accommodating the revised access and all landscaping details, such as hybrids poplars would be submitted.

Staff noted that on March 5, 2013 a meeting was held with a group of concerned residents per their request to review the proposed development. A key concern of this group related to the access off Stoner Lane.

**Staff Recommendations:** In Staff's view, the revised site plan successfully addressed all the outstanding issues. The proposed shared access to Stoner Lane was adequately setback from the intersection of Highway 12 and Stoner Lane. As noted by the Benton County Highway Department, a sign would be installed in the Stoner Lane right-of-way warning users of the hidden driveway. The Stoner Lane access would provide a secondary fire access for emergency vehicles. Minor revisions would be required to the design of the proposed access for the safe maneuvering of vehicles. A shared access agreement detailing the easement would be required as a condition of issuing a building permit.

Staff suggested the Planning Board consider several stipulations in any decision for approval of the proposed development. The applicants would need to agree to submit a revised site plan before the issuance of a Decision Letter. The applicants would also need to agree to fulfill all the Standard Stipulations. The Applicants should obtain a stormwater permit from the Planning Department. The applicants should store all building materials, tires, pallets, and any other hazardous materials inside a building and include a secondary containment system to avoid spills or any other negative impact to the environment. Finally, the applicants should agree to enter into a shared agreement describing the limits to the shared access from Stoner Lane, which must be recorded with the Benton County Recorder's Office.

**Comments from the Applicants:** The applicants provided handouts for Staff and the Board to review.

Mr. Wolfe stated most issues could be resolved and that the prior meetings up to date had been helpful. He agreed that improvements needed to be made. He said he understood he wouldn't be able to find common ground with his neighbors.

Mr. Wolfe said he understood why Dollar General was denied access off Stoner Lane. He stated he had a main entrance for customers and that statements from neighbors claiming hundreds of customers had used the Stoner Lane access were untrue. He claimed the main reason for access was because main driveway was too steep for longer boats. Mr. Wolfe had acquired permission from Rick Buck two (2) years ago to use the Stoner Lane access. He stated the access would be fenced and gated. He stated he didn't believe he would endanger any children and that he wouldn't have his own kids dropped off at Highway 12. He stated the need to grow his business and that the proposal was one way he could and that he wasn't trying to threaten anyone. He stated that someone should have purchased the property if they didn't want it developed commercially. He remarked he had a right to buy and have access to commercial property.

Ms. Wolfe stated that Staff's report was incorrect in stating the Stoner Lane access was needed because it was impossible for boats to be trailered around the south side of the building. The problem, she said, was that it was difficult to get large boats off Highway 12. She stated they originally wanted their Highway 12 access further down where it would be less steep, but Highway Department only allowed a marginal adjustment. She stated that large boats drag and the traffic was too heavy on Highway 12.

Mr. Wolfe stated he had permission to use property before submitting his revised site plan. He remarked that he wanted to make the property look good and to achieve good access. He claimed he never received one complaint when using the Stoner Lane access nor had his operations caused any traffic jams or accidents. He stated several neighbors frequented his shop, but none had ever raised an issue. He argued he needed to grow and that he had just hired two (2) new people. He finished by stating he was overall disappointed by the difficulty he had in open interaction with his neighbors.

Ms. Wolfe stated residents should have been advised that they would be driving through commercial property when they purchased houses on Stoner Lane.

Mr. Wolfe stated he knew he didn't have Board approval to start building a fence, but that he wanted to achieve continuity. He added he didn't have to do the slat fencing. He stated he wanted to put up a fence everyone in the neighborhood could agree with. Mr. Wolfe stated that he understood people didn't like the look of the boats.

**Questions from the Board:** Ms. Leyva asked Mr. Wolfe if he had entered into an agreement to share the Stoner Lane access. Mr. Wolfe replied that he had entered into an agreement with Kevin Smith Peters who was willing to provide a written statement.

Ms. Leyva asked Mr. Wolfe to define the service area. Mr. Wolfe replied that boats would be repaired inside the building and that they were only ever outside of the building in order to test run the engine.

Ms. Leyva asked how tall the boats were. Mr. Wolfe replied he could pull 95 percent of the boats into his shop. Some boats he couldn't fit in, however, requiring the proposed addition with 14-foot doors. He stated he did not store boats, but that some customers never came back to pick them up.

Ms. Leyva asked what the height of the proposed fence along Stoner Lane would be. Mr. Wolfe stated it would be six (6) feet.

Mr. Cole asked Staff if the shared access would have to be on Stoner Lane exclusively. Mr. Curtis replied that it would be too steep to be off Highway 12. Ms. Singh added that a shared access from Highway 12 would be difficult.

Mr. Cole asked why the Stoner Lane access would be gated. Mr. Wolfe replied for security reasons. Mr. Cole asked if the gate would remain open during the day. Mr. Wolfe replied that it would. Ms. Wolfe added that the gate would contain a knox box.

Mr. Cole asked if customers would primarily access the property off Highway 12. Ms. Wolfe replied that customers would drop off and pick their boats up using the Highway 12 access. She further added that the Stoner Lane access would only be used for boats too large for the Highway 12 access, in addition to employees accessing the property. Mr. Wolfe remarked that he currently had two (2) 33-foot boats that required the rear access. Ms. Wolfe added that any smaller boats that had entered the Stoner Lane access were done so by customers dropping them off after business hours, but that the proposed gate would prevent that practice in the future.

Mr. Cole asked if Dollar General sought a primary access from Stoner Lane. Mr. Curtis replied that Dollar General initially sought an access off of Stoner Lane, but that the access was later moved to Highway 12. Mr. Cole responded that he was just making sure the applicants were being treated in the same manner as Dollar General. Mr. Curtis noted that the Dollar General proposal considered large trucks regularly entering and exiting the property, as well as a greater amount of general traffic. Mr. Wolfe noted that Dollar General has a lot more traffic entering and exiting the property than his business. Ms. Wolfe remarked that the proposed access off Stoner Lane would not be visible to customers on Highway 12. Mr. Wolfe added that Dollar General remained open till 10 PM, which was much later than his proposed hours of operation.

Mr. Tucker asked the applicants if they could estimate the traffic entering and exiting their property. Ms. Wolfe replied that Wolfe Boat Works employees six (6) individuals, with four (4) using the Stoner Lane access. He added that the employees did not leave for lunch and that traffic dropped significantly during the winter months. Mr. Tucker asked if there was a large disparity in the total number of customers entering and exiting the property when compared to Dollar General. Ms. Wolfe replied that there was.

Mr. Knight asked the applicants if they had any intention of using the parcel to the northeast of the property. Mr. Wolfe replied that he did not own that property. Mr. Curtis noted that parcel was viewed as a site for future commercial development.

Mr. Curtis asked the applicants to specify what the buffering around the property would look like. Mr. Wolfe replied that he has found common ground with Staff in regard to buffering that would satisfy his neighbors.

Mr. Knight asked if noise mitigation would be a problem. Mr. Wolfe replied that he had to run boats outside occasionally which could be noisy. He said muffling a boat outside the water was impossible, but that he had never received a complaint.

**Public Comment:** Gary VanOvershelde of 8553 Stoner Lane stated he has been a resident of the neighborhood for 12 years. He stated he was glad to hear that Wolfe Boat Works was expanding and that people were being employed. He said he had no objection against the business expanding, but wanted it to be done in a tasteful manner. He provided Staff and the Board with a handout. The handout contained a survey the neighborhood had conducted which showed that 86 percent of the residents of Stoner Lane disapproved of the Stoner Lane access. He said that 59 percent of the residents favored a wood fence and presented a picture of what the residents had in mind. He said he hoped buffering along the south side of property would consist of deciduous trees. He said he had no issue with the site lighting.

Cindy Jones of the Benton County Road Department asked the applicants why their employees parked in the back. Mr. Curtis reminded Ms. Jones that the applicants would have a chance to respond later. Ms. Jones stated that she did not like the curved access on the revised site plan and would like to see something different.

Shirley VanOvershelde of 8553 Stoner Lane stated she was disappointed that she again had to come to the Board to request a denial of a commercial access off Stoner Lane. She said the neighbors had all the same issues they had with Dollar General. She argued the narrowing of Highway 12 in the vicinity created a dangerous situation. She said she did not want the extra wear on Stoner Lane by boats and trucks. She asked the Board who would make the repairs to Stoner Lane caused by the proposed access. She stated she had seen the access used by customers. She noted the neighbors used Stoner Lane for exercise and were worried about increased traffic. She said she was afraid the extra trucks would create an eyesore from oil and mud leakage. She said she didn't approve of inserts in any proposed fence because they do not block vision into the site.

Bill McClard of 149 North Pleasant Ridge Drive produced photos he took of Wolfe Boat Works. He stated he owned the Dollar General on the adjacent property. Pointing to his pictures, he remarked that the boats did not look good. He was also concerned with slating and how it tears up. He said he would rather see a berm constructed. He stated he had personally built several berms, which he believed would provide protection from sight and sound. He wanted to know if some of the oaks would be removed. He stated he believed berms would be inexpensive and easy to construct. He recommended a seven (7) foot berm with evergreens.

Patricia Brewer of 810 SE G St stated she opposed the access from Stoner Lane. She said her family owned a duplex south of the property. She stated her grandmother built the structure 14 years ago. She said she was afraid her kids wouldn't be able to safely ride their bikes if the Stoner Lane access was approved. She stated the current driveway to Wolfe Boat Works could be fixed to provide the needed access.

Casey Crutchfield of 8649 Stoner Lane stated that the gate on Mr. Wolfe's property had already been constructed. He wanted to know if the shared access to Stoner Lane would be grandfathered in the lot adjoining it. Mr. Curtis replied that the parcel would require access somewhere for legal reasons. Mr. Crutchfield asked if there would be any way to control what would get built on that parcel. Mr. Curtis replied that no rules existed regarding what can be put on the lot, but that any development would have to be presented to the Planning Board.

Jerry Hudlow of 8600 Stoner Lane stated he did not approve of the proposed access off Stoner Lane. He told Mr. Wolfe that he was not against his business. He said the access was already being used and that the usage had increased over time. He stated that trucks had been tracking mud on the street. He stated that if the access was going to be used that it needed to be graveled. He felt the residents have been imposed upon by the developer. He was worried about how the proposed plantings would be watered and maintained. Ms. Leyva told Mr. Hudlow that access to parcel directly northeast of the property would have to come off of Stoner Lane if it was ever developed. Mr. Ryan added that as part of the Standard Conditions, buffers must be maintained and that there was no commercial zoning in Benton County.

Jenni Combs of 8509 Stoner Lane stated she opposed access off Stoner Lane. She said she lived at the end of the cul-de-sac. She was concerned with bigger boats turning around at the back of the cul-de-sac.

Dawn Ashby of 8624 Stoner Lane stated she opposed the access from Stoner Lane. She was unaware when she moved to Stoner Lane that the property along Highway 12 was designated commercial. She asked the Board if access off Stoner Lane would be granted to the adjoining parcel to the northeast when if it were ever developed. Mr. Curtis replied that access would be granted. Ms. Ashby responded she felt it wouldn't be right to grant that access.

Dolly Lyon of 8568 Stoner Lane suggested a shared access to the adjoining parcel be established off Highway 12, so that the Stoner Lane access wouldn't be required.

Sue Keith Elverson of 11297 Blue Jay Road agreed that the residents of Stoner Lane had good concerns. She noted, however, that the applicants were helped in choosing the access off Highway 12 by the State Highway Department and that it was poor planning on that agency's behalf. She suggested residents of Stoner Lane erect wood markers to keep trucks off their lawns. She felt it was unrealistic for the applicants to not have a gate and fencing.

Roger Kattestad of 8584 Stoner Lane commented on the survey presented by Mr. VanOvershelde. He reiterated that 86 percent of Stoner Lane residents wanted the access from Stoner Lane to be denied. He requested a solid fence be constructed to screen the boats. He noted in the subdivision's covenants that boats must be screened from the road. He felt the rest of the buffer and lighting was acceptable.

**Response from the Applicant:** Cindy Jones of the Benton County Road Department asked the applicants if their employees could use the Highway 12 access. Ms. Jones stated she would prefer the access point off Stoner Lane be less curved. The applicant's engineer, Don Johnston, replied that the curved access was the result of meetings with Staff. He added that the applicants did not care which entrance employees used.

Mr. Wolfe addressed the concerns raised by Stoner Lane residents regarding the proposed Stoner Lane access. He stated that the entry way would be paved or concrete and that the parking lot would be graveled. He noted that initially the residents wanted a wrought iron fence before requesting a wood one. He stated he would be fine with removing the inlay. He noted a lot of businesses had a side entrance off residential streets including his competitors. He noted in the past he had customers request he pick up boats on Stoner Lane and return them. He said during winter months that traffic dropped substantially and that the idea of him driving down Stoner Lane with boats was ridiculous.

Ms. Wolfe stated that the business did not have the money to keep replacing landscaping and couldn't afford to let the plants die as Dollar General had. The summer intern would be responsible for watering the plants in the summer. She stated she would run a soaker hose to water the landscaping off Stoner Lane in the summer. She noted that the duplex south of Wolfe Boats Works encroached on their property line by ten feet, but that she had not brought up the issue as a goodwill gesture.

Mr. Wolfe stated he understood the neighbors' concerns and that he had dealt with a similar issue at his personal residence. He stated the property was zoned commercial when he bought it and that if his business wasn't there, another would be eventually. He stated he had no plans for putting a building on the parcel fronting Stoner Lane.

Mr. Curtis commented that no zoning existed in Benton County. He noted anything could be built anywhere as long as nuisances were mitigated. He stated the properties adjacent to Highway 12 were under separate covenants than the rest of Stoner Lane Subdivision. Ms. Wolfe remarked that the covenants on his property were revoked when it was purchased.

**Questions/Comments from the Board:** Ms. Leyva asked the applicants if they sold new boats. Mr. Wolfe replied that they only did repairs. Ms. Leyva asked if new boats were ever brought onto the property. Mr. Wolfe replied that he sometimes had to work on new boats from local dealers. He said he did sell new motors, however. Ms. Leyva asked how boats were brought onto the property. Mr. Wolfe replied that they entered from Highway 12.

Mr. Knight reiterated that there was no zoning in Benton County. If the property on the corner were to sell, it could be developed into anything and would require access. If the entrance was denied, a big problem would just be pushed off. He claimed the shared access was a good idea because access to the corner lot

would have to come at some point. He stated that the goal should be to do a good job creating an access now because the need to do so was inevitable.

Mr. Cole asked Staff if the parcel to the north would have to obtain access off Stoner when developed. Mr. Curtis replied that it would due to problems with elevation. Mr. Cole asked if the real issue of for this parcel was access. Mr. Curtis replied that the question could be better answered by the State Highway Department.

Ms. Leyva asked when the property was developed. Mr. Tucker replied more than 30 years ago.

Mr. Tucker asked if the overburden could be removed and the hill cut to provide access off Highway 12. Ms. Singh responded that his proposed solution wouldn't address the issue of the required setback from the intersection of Stoner Lane and Highway 12. Mr. Curtis remarked that the problem was the result of poor planning of the Stoner Lane Subdivision.

Ms. Leyva asked how the shared access came about. Ms. Singh responded that it was a way to justify the access off Stoner Lane. She further added that two (2) curb cuts on a residential street close to Highway 12 would be unwarranted. Mr. Ryan stated Staff would talk to Ms. Jones about the issues with the Stoner Lane access. He noted the curvature of the access was designed to steer trucks exiting off Stoner Lane away from residential areas. Ms. Singh added that Staff was unable to review the revisions to the Stoner Lane access with the Benton County Road Department.

Mr. Williams asked if the entire length of Stoner Lane was a public road. Ms. Ryan replied that it was a completely public road.

Ms. Leyva asked if employees had to enter the property from Stoner Lane. Mr. Wolfe replied that they did not and that it would just be used for bigger boats.

Mr. Tucker asked Staff if the stipulation requiring the Applicants to obtain a stormwater permit prior to the issuance of a building permit was an automatic requirement. Ms. Singh replied that the requirement was specific to locations within an MS4.

Ms. Leyva asked if the current or proposed addition would allow for the storage of materials currently located outside. Mr. Wolfe replied that a designated space had been assigned per discussion with the Planning Staff and Environmental Services.

**Motion:** Mr. Knight made a motion to approve the proposed plan commensurate with the Staff's recommendations. Mr. Williams seconded the motion.

**Discussion:** Mr. Knight asked Mr. Curtis if each individual Board member should explain the reasoning behind his or her vote. Mr. Curtis replied that explanations would be needed for the denial letter if the proposal was denied.

Mr. Williams asked if provisions existed for the property owners to purchase back Stoner Lane and make it private. Mr. Ryan replied that they could petition the County Judge to have it abandoned and have street gated. Mr. Tucker asked if the theoretical private road would begin at Lot 69. Mr. Ryan replied that it most likely would.

Mr. Knight asked if the residents of Stoner Lane would have the right to appeal the decision. Mr. Curtis replied that only the adjacent property owners would have the right to appeal. Mr. Ryan argued that since a potential traffic issue existed, the entire subdivision might gain standing in an appeal.



**Vote:** The motion passed 5-1, with Mr. Cole voting against.

The Public Hearing was closed at 7:55 PM.

#### **TECHNICAL ADVISORY COMMITTEE**

**Call to Order:** 7:56 PM

**Old Business:** None

**New Business:** None

**Staff Updates:**

#### **A. Chapter 6 of the proposed land-use regulations**

Presented by: Staff

Mr. Ryan informed the Board that Chapter Six of the proposed land-use regulations had been presented to the Legislative Committee on March 4, 2013. He felt the hearing went well, although some future issues may have appeared controversial. He said he felt the Board understood the presented system for site plan review. He added he would like the Board to review the proposed changes as well and be prepared to discuss Chapter 6 at the next meeting.

Mr. Ryan also informed the Board that Staff would present Chapters 7-10 at the March 25, 2013 Legislative Committee meeting, in addition to addressing any outstanding questions. He remarked that one of the main questions of concern was the threshold for in-home occupations and the creation of regulations to deal with agricultural-commercial operations.

**Questions from the Board:** Ms. Leyva asked Mr. Ryan if small farms that could not sell certain items at farmers markets would be affected by the proposed changes. Mr. Ryan replied that the idea was to create a middle zone for agricultural-commercial operations. He added that modifications to appeals may be brought forward. The County Attorney would be consulted before the changes were brought to the Board. He concluded that he hoped to discuss the issue further at the next Board meeting.

#### **B. Arkansas House of Representatives Bill 367**

Presented by: Staff

Mr. Ryan brought attention to the Board of the status of Bill 367. He stated the bill would eliminate land-use and environmental planning in Arkansas, except for the possibility of some nuisance provisions. He stated the idea was that if any land use regulations had a 10 percent or greater economic impact on a property that the county, city, or municipality imposing the regulations upon the property would have to pay fair market value for diminution of the property to its owner. Mr. Ryan remarked that he expected that instead of paying compensation to affected landowners, these entities would instead roll back their regulations. He noted the bill had passed Committee and was expected to pass the Senate as well. He stated he believed that Governor Beebe would veto the Bill, but that his veto would be overridden. In his opinion, he felt the bill would be implemented but that it would face multiple legal challenges. He felt it would strike down the proposed regulations and about 50 percent of what the County already had in place.

**Questions/Comments from the Board/ Staff:** Mr. Tucker asked Mr. Ryan if other states had encountered similar bills. Mr. Ryan replied that he did not know of any instances. Mr. Tucker remarked that the bill appeared similar to the Informed Growth Act in Maine.

Mr. Curtis noted that, according to Mr. Hedron, the bill would not be retroactive and that it wouldn't inhibit zoning by local governments because zoning typically increases property value. Mr. Tucker remarked that the burden of proof on zoning increasing property values would be the responsibility of local governments. Mr. Ryan noted that local governments would only be left with nuisance provisions, thus reducing what planning departments could do to a bare minimum. He recommended contacting local representatives to oppose this measure.

Ms. Leyva stated she didn't believe her department was aware of the bill.

Ms. McGetrick remarked that the bill wouldn't exempt federal regulations, so it would not negate the County enforcing any FEMA issues. He added no federal floodplain provision would be exempted.

Mr. Williams asked who would interpret the diminished value. Mr. Curtis replied that it would be up the courts to decide.

The meeting adjourned at 8:14 PM.